

Montgomery County Council
Council Office Building
100 Maryland Avenue, 6th Floor,
Rockville, MD 20850

Date: February 8, 2023

Re: FY24 Capital Budget and supplemental appropriations to the FY23 Capital Budget and amendments to the FY23-28 CIP; **request for prescriptive language regarding Little Falls Parkway**

Dear Council Members:

I write as Chair of the Kenwood Citizens Association Civic Affairs Committee to urge you to include by way of an amendment (or amendments) prescriptive language in the FY23-28 CIP with respect to the budget for the Maryland National Capital Parks and Planning Commission/ Montgomery County Planning Board. And I ask that you make this letter part of the CIP record.

I respectfully request the Council include language by way of amendment(s) along these lines:

“No appropriated funds may be spent by the Parks Department to implement a ‘road diet’ on Little Falls Parkway in Bethesda. Nor may any appropriated funds be spent by the Parks Department on a so-called ‘linear park’ in the footprint of Little Falls Parkway. Further, Parks is hereby directed to publicly disclose and post on its website a complete accounting of all funds spent on the Little Falls Pilot Project to date, and all planned expenditures. And Parks is directed to study the cost and feasibility of building a bridge for the Capital Crescent Trail over Little Falls Parkway.”

I request this language for the following reasons:

1. Parks has Acted Illegally in Closing Half of Little Falls Parkway

Federal law (Capper-Cramton Act, 46 Stat. 482, and its amendments) grants the National Capital Planning Commission (NCPC) (formerly the National Capital Park and Planning Commission) review authority to approve any park development or management plan within lands purchased with monies appropriated under the Federal Law, including Little Falls Parkway in Bethesda.

The Maryland National Capital Parks and Planning Commission (M-NCPPC), in this case the Montgomery County half – the Montgomery County Planning Board -- has never sought approval from NCPC for their multiple closures of Little Falls Parkway, including their current so-called Pilot Project where have closed half the lanes of Little Falls Parkway. These actions are in violation of the Capper-Cramton Act, its amendments, and the 1931 agreement between the

NCPC and the M-NCPPC allowing title for Capper-Cramton lands such as Little Falls Parkway – purchased with Federal funds – to be vested in the State of Maryland. Under this Federal law and the 1931 agreement, M-NCPPC (and the Montgomery County Parks Department within that legal entity) is required to pursue a detailed review process for the development or re-development of all Capper-Cramton land, including Little Falls Parkway.

The NCPC review process for projects on Capper-Cramton lands is similar to the review process for building, site, and park projects in the region and can be found on their website at www.ncpc.gov. Depending on the nature of the project, it can include four phases: Pre-Submission Briefing, Concept Review, Preliminary Review, and Final Review.

Moreover, as the Federal planning agency for the National Capital Region, NCPC is subject to a series of laws and policies that regulate federal development actions and play a critical role in the agency's review. These include the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA). These laws are intended to protect environmental and historic resources. M-NCPPC, by failing to follow NCPC's review processes, may also have violated these Federal statutes.

Therefore, these closures are illegal, involving violation of multiple Federal laws, and the Council should take immediate action to stop Parks and the Planning Board from spending any appropriated funds to break the law.

2. Parks has Disregarded Public Opinion in Closing Half of Little Falls Parkway

In imposing the Little Falls Pilot Project on Little Falls Parkway and nearby residents, Parks has consistently acted without any consideration of or support from local communities and residents. Little Falls Parkway is a vital road artery that has served Bethesda residents for decades. Yet Parks has initiated its Pilot Project and closed half of Little Falls Parkway without a single public meeting to solicit input from the tens of thousands of residents and their communities negatively affected by these closures. Not surprisingly, when these residents were recently surveyed (not by Parks), their overwhelming response was that they believe Parks has not been fair to residents and their concerns about closing the Parkway, and that Parks has failed to take sufficient steps to build consensus around their planned closure of half of Little Falls Parkway.

In fact, when in 2018 Parks did survey residents, residents' first choice was to reopen all four lanes of Little Falls Parkway, and study the feasibility of building a bridge for the Capital Crescent Trail over Little Falls Parkway to address safety concerns for that crossing. Parks has consistently failed to solicit or heed the voices of residents in violation of basic norms of democratic governance.

Accordingly, the Council must act on behalf of residents and use its power of the purse to stop funding for Parks' rogue and undemocratic "taking" of a perfectly well functioning roadway.

3. Parks is Ignoring Relevant Data in its Traffic Analyses

Residents have many concerns about Parks' LFP closures, including that they will increase cut-through traffic and speeding in surrounding neighborhoods from drivers frustrated by their inability to safely and efficiently travel on Little Falls Parkway, increase emergency vehicle response times. They also are concerned that Parks is acting without sufficient consideration of all the new development -- at Westbard, in downtown Bethesda, and along the River Road Growth Corridor created under Thrive -- that is likely to create more drivers who need to use the Parkway to travel to and from Bethesda. There is ample evidence collected by concerned residents via video and other media that Parks' road closures are indeed creating dangerous bottlenecks, and unsafe conditions for drivers, pedestrians and cyclists.

Yet, in a January 19, 2023, Press Release, Parks has announced that it is going ahead and presenting its insufficient traffic data to the Planning Board this Spring as a basis to request the permanent closure of half of Little Falls Parkway. The data Parks is planning on presenting does not include analysis of the speed of cut-through traffic in neighborhoods near LFP, does not include any modeling of increased development around Little Falls Parkway and its impact on future LFP traffic, does not analyze traffic bottlenecks at peak traffic times created by the closures, and does not consider how the closures affect traffic algorithms such as Waze and Google Maps in terms of the potential for the closures to increase cut-through traffic in the surrounding residential neighborhoods.

The Council must act to prevent Parks from rushing to close a vital Roadway without adequate study, potentially decreasing safety for pedestrians, cyclists, and drivers in multiple Bethesda neighborhoods, and failing to adequately prepare for future traffic needs.

4. Parks has Refused to Disclose the Budget and Amount Spent on the Little Falls Pilot Project

Despite multiple requests from concerned citizens and civic organizations, including most recently the Citizens Coordinating Committee for Friendship Heights (www.ccfhmd.org) which represents 20,000 Montgomery County residents, Montgomery County Parks has refused to publicly disclose either the amount it has spent to date on its various closures of Little Falls Parkway, or its planned budget associated with any permanent closure and the creation of a so-called "linear park" on one half of the existing roadway.

This willful lack of basic transparency of how taxpayer funds are being spent is outrageous. What does Parks have to hide? As the saying goes, sunlight is the best disinfectant. Therefore, as part of any appropriations for Parks activities, Parks should be required by the Council to

immediately publicly disclose on its website both what it has already spent on the Little Falls Pilot Project, and any proposed budget for future expenditures associated with lane closures or the creation of a new park. Basic norms of good governance dictate that the citizens know how their tax money is being spent, and the scope and cost of government agency activity is open to meaningful scrutiny by the public and the press. Allowing Parks to remain immune from public and press scrutiny would set a very dangerous precedent.

5. Parks is Wasting Taxpayer Money on a Park No One Wants

The stated purpose for Parks' actions in closing half of Little Falls Parkway permanently is to turn half of part of the Parkway into a "linear park" with games, food trucks, and "acoustic events" (presumably concerts). Yet, once again, no community in the vicinity of Little Falls Parkway ever requested that Little Falls Parkway be closed, let alone that it be closed and half of it turned into new park of this nature. The area around Little Falls Parkway in Bethesda already has an abundance of parks and recreational amenities. If additional taxpayer money is to be spent in the Bethesda area to improve parks, then it would be far wiser to spend it on, for example, improving the Capital Crescent Trail, an immensely popular park that already exists and whose bed is in need of shoring up and widening.

The "linear parks" in other cities that Parks touts as examples of what it is aiming to achieve -- the Highline in New York City, the Beltline in Atlanta, or the Rose Kennedy Greenway in Boston -- bear absolutely no resemblance to Little Falls Parkway. Those parks knit together the urban cores of each of New York, Atlanta, and Boston. The Highline is 1.5 miles long, the Beltline is 22 miles long and encircles downtown Atlanta. The Rose Kennedy Greenway links Boston's oldest neighborhoods and Boston's waterfront. By contrast, the proposed park on Little Falls Parkway is 2000 feet long, and isn't even in a city let alone a major city like those others. Little Falls Parkway sits among suburban neighborhoods that already have an abundance of popular parkland. Unlike the Highline, Little Falls Parkway it is not an abandoned roadway in need of rescue and refurbishment. Instead, it is a vital traffic artery likely to be seeing increased demand in coming years. Another critical fact: All three of the linear park projects cited by Parks had significant local, County, State, and even Federal support for their creation. By contrast, there is no local support for this proposed park, and no significant other government support either. This is simply a vanity project for Parks' leadership unmoored from any grassroots support.

The Council should act to prevent the Planning Board and Parks from spending money on a new park that makes zero sense and has zero local community support when there are far more worthy candidates, none of which carry the risk of injuring nearby residents and communities.

6. The Best Solution Would be to Build a Bridge for the CCT Over LFP

Another far wiser use of taxpayer funds would be to build a bridge for the Capital Crescent Trail over Little Falls Parkway, which would dramatically improve the safety of drivers,

pedestrians, and cyclists at that crossing. This is exactly what residents indicated that they wanted when surveyed by Parks in 2018. It really is the common-sense solution and the one most consistent with Vision Zero. And it was what the Planning Board voted 4-1 to study further in 2019 before the former (now-disgraced) Planning Board Chair got the vote effectively reversed in undemocratic fashion.

The bottom line is that nothing Parks has done in the past four years has materially improved the safety of the Capital Crescent Trail crossing at Little Falls Parkway. It remains a dangerous crossing, and gets more dangerous every day as the trail gets more popular. And nothing Parks is proposing – including permanently closing half the lanes of Little Falls Parkway or creating a linear park -- would improve safety at that crossing.

Therefore, the Council should require that the Planning Board and Parks heed the public interest and public opinion and immediately begin to study the cost and feasibility of building a bridge for the Capital Crescent Trail over Little Falls Parkway.

Conclusion

For all these reasons, the Council should act to prevent the Parks Department and Planning Board from spending one more penny on the illegal, wasteful, and dangerous boondoggle of closing half Little Falls Parkway to create a park no one in the community wants, and use its power of the purse to focus government attention and scarce taxpayer resources on other much more deserving causes such as improving the Capital Crescent Trail and building a bridge for its crossing over Little Falls Parkway.

Respectfully,

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